

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

MELVIN McMILLIAN, :
: :
Petitioner, :
: :
vs. : CIVIL ACTION 11-0005-WS-M
: :
BILLY MITCHEM, :
: :
Respondent. : :

ORDER

After due and proper consideration of all pleadings in this file, and a *de novo* determination of those portions of the Recommendation to which objection is made, the Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is adopted as the opinion of this Court.

It is ORDERED that this petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2254, be **DENIED**. It is further ORDERED that Petitioner is not entitled to a certificate of appealability and, therefore, not entitled to appeal *in forma pauperis*.

DONE this 16th day of August, 2011.

s/WILLIAM H. STEELE
CHIEF UNITED STATES DISTRICT JUDGE